

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

**Re: ECF Nos. 18602, 19370, 19733,
20066**

(Jointly Administered)

URGENT CONSENSUAL MOTION SEEKING ADJOURNMENT OF HEARING

To the Honorable United States District Court Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the Commonwealth’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² respectfully submits this urgent motion for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), adjourning the hearing date established in the *Order Granting Urgent Consensual Motion*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Building Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² PROMESA has been codified in 48 U.S.C. §§ 2101–2241.

for Extension of Deadlines [ECF No. 19733] (the “January Scheduling Order”), and states as follows:

Request for Relief

1. On October 19, 2021, Community Health Foundation of P.R. Inc. (“Movant”) filed *Community Health Foundation of P.R. Inc.’s Motion for Allowance and Payment of Administrative Expense* [ECF No. 18602] (the “Administrative Expense Motion”) seeking, among other things, (i) allowance and payment of certain post-petition wraparound payments and (ii) an order requiring the Commonwealth to prospectively make all wraparound payments to Movant. In the Administrative Expense Motion, Movant asserts that the Commonwealth has failed to perform its obligations with respect to each quarterly payment period beginning on the 4th quarter of 2017, up to and including the 3rd quarter of 2021, resulting in a shortfall of \$20,032,477 owed to Movant.

2. The Administrative Expense Motion requested a hearing for the Court to consider the Administrative Expense Motion (the “Hearing”) to be established for December 15, 2021 at 9:30 a.m. (A.S.T.).

3. Upon the motion of the Commonwealth, and with the Movant’s consent, on November 29, 2021, the Court entered an order extending the deadline for the Commonwealth to respond to the Administrative Expense Motion from November 30, 2021 to January 14, 2022. *See Order Granting Urgent Consensual Motion for Extension of Deadlines* [ECF No. 19370] ¶ 4. In the same order, the Court stated the Administrative Expense Motion would not be heard on December 15, 2021, and would instead be heard in connection with the February 2, 2022 omnibus hearing. *Id.* ¶ 3.

4. On January 10, 2022, due to the Oversight Board’s ongoing investigation and evaluation of Movant’s claims, the intervening holiday period, and the spike in Covid-19 cases on

the island that impacted the ability to obtain necessary information from relevant government agencies, the Oversight Board requested an extension of the deadline to respond to the Administrative Expense Motion. *See Urgent Consensual Motion for Extension of Deadline* [ECF No. 19722]. In response, on January 11, 2022 the Court entered the January Scheduling Order, which (1) extended the deadline for the Commonwealth to respond to the Administrative Expense Motion from January 14, 2022 to February 14, 2022, and (2) set the Hearing to occur in connection with the March 23, 2022 omnibus hearing. *See* January Scheduling Order ¶¶ 2, 4.

5. On February 7, 2022, the Commonwealth asked for an additional extension of the deadline to respond to the Administrative Expense Motion, in light of the Oversight Board's ongoing investigation of Movant's claim and outstanding requests for information from Movant in connection with such investigation. *Urgent Consensual Motion for Extension of Deadlines* [ECF No. 20064] ¶ 4. The next day, the Court entered an order (1) extending the deadline to object to the Administrative Expense Motion from February 14, 2022 to March 16, 2022, at 4:00 p.m. (A.S.T.), and (2) setting the deadline for Movant's reply papers in support of the Administrative Expense Motion, if any, for March 23, 2022 at 4:00 p.m. (A.S.T.). *Order Granting Urgent Consensual Motion for Extension of Deadlines* [ECF No. 20066] (the "February Scheduling Order") ¶¶ 2, 3. Notably, unlike the January Scheduling Order, the February Scheduling Order did *not* state that the Administrative Expense Motion would not be heard in connection with the March 23, 2022 omnibus hearing, nor did it set another hearing date for the Administrative Expense Motion.

6. Given the schedule set by the Court in the February Scheduling Order, there is no need for the Hearing on March 23, 2022. Indeed, the deadline set by the Court in the February Scheduling Order for Movants to reply to any objection to the Administrative Expense Motion is

the same day as the Hearing. Accordingly, the Commonwealth respectfully requests the Court enter an order stating that the Administrative Expense Hearing will not be heard at the March 23, 2022 omnibus hearing. The Commonwealth defers to the Court in deciding whether to take the Administrative Expense Motion under submission or to schedule the Hearing for a later date.

7. The Commonwealth has conferred with counsel for Movants regarding this request for relief, and counsel for Movants has stated it has no objection to having the Hearing adjourned to a later date which is consistent with the current calendar.

8. Pursuant to Paragraph 1.H of the *Fifteenth Amended Notice, Case Management and Administrative Procedures* [ECF No. 17127-1] (the “Case Management Procedures”), the Debtor hereby certifies that it has carefully examined the matter and concluded that there is a true need for an urgent motion; it has not created the urgency through any lack of due diligence; has made a bona fide effort to resolve the matter; has made reasonable, good-faith communications in an effort to resolve or narrow the issues that are being brought to the Court, and Movant consents to the relief requested herein.

Notice

9. The Debtor has provided notice of this motion in accordance with the Case Management Procedures to the following parties: (a) the Office of the United States Trustee for the District of Puerto Rico; (b) the indenture trustees and/or agents, as applicable, for the Debtors’ bonds; (c) the entities on the list of creditors holding the 20 largest unsecured claims against COFINA; (d) counsel to the statutory committees appointed in these Title III cases; (e) the Office of the United States Attorney for the District of Puerto Rico; (f) counsel to the Oversight Board;

(g) the Puerto Rico Department of Justice; (h) the Other Interested Parties;³ (i) all parties filing a notice of appearance in these Title III cases; and (j) Movant. A copy of the motion is also available on the Debtors' case website at <https://cases.primeclerk.com/puertorico/>.

10. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

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³ The "Other Interested Parties" include the following: (i) counsel to certain of the insurers and trustees of the bonds issued or guaranteed by the Debtors; and (ii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtors.

WHEREFORE, the Debtor requests the Court enter the Proposed Order and grant such other relief as is just and proper.

Dated: February 24, 2022
San Juan, Puerto Rico

Respectfully submitted,

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*Attorneys for the Financial Oversight and
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of the Commonwealth*

Exhibit A

Proposed Order

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

**Re: ECF Nos. 18602, 19370, 19733,
20066**

(Jointly Administered)

ORDER GRANTING URGENT CONSENSUAL MOTION FOR CANCELLATION OF
HEARING

Upon the *Urgent Consensual Motion for Cancellation of Hearing* (ECF No. [], the “Scheduling Motion”);² and the Court having found that the relief requested in the Scheduling Motion is in the best interests of the Debtor and Movant; and the Court having found that the Debtor provided adequate and appropriate notice of the Scheduling Motion under the circumstances and that no other or further notice is required; and the Court having reviewed the Scheduling Motion; and the Court having determined that the factual bases set forth in the Scheduling Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Building Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² Capitalized terms used but not otherwise defined herein have the meanings given to them in the Extension Motion.

1. The Scheduling Motion is granted as set forth herein.
2. The Administrative Expense Motion will not be heard in connection with the March 23, 2022, omnibus hearing.
3. After the deadlines to file responsive pleadings occur, the Court will take the Administrative Expense Motion on submission, unless the Court determines that a hearing is necessary.
4. This Order resolves Docket Entry No. [] in Case No. 17-03283.

SO ORDERED.

Dated: [], 2022

LAURA TAYLOR SWAIN
United States District Judge